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(f) To accelerate the closure and to encourage a reduction in the size of developmental centers, the commissioner will consider proposals to allow the variable costs associated with a developmental center to become part of the operating expenses of new and existing state operated community facilities. The variable costs associated with the developmental center will be allowed for the transition which is the period beginning on the date an official announcement to close a facility or facilities and ending on the date of actual closure. Also variable costs associated with the planned conversion of beds which is at least a 10 percent change in the facility census will be allowed. The commissioner will allow a reasonable incentive for the reimbursement of the increased costs referred to above in the state operated community facilities during the transition and/or conversion period. An incentive plan would provide for the reimbursement in total of increased costs in the state operated community facilities without adjustments or offsets.

(1) The commissioner will allow the following reimbursement for approved proposals:

(i) 75 percent reimbursement of the increased costs incurred during the transitional closure period. On the effective date of closure, reimbursement of increased costs will be considered under subsection (c)(7)(i)(e).

(ii) 75 percent reimbursement of the increased costs incurred during the conversion period. The conversion period will be for at least one full rate period as defined by subsection (c)(2) but less than two full rate periods. If during the conversion period, an official announcement of closure occurs, the reimbursement of increased costs may be considered under subsection (c)(7)(i)(f)(1)(i).

(2) Costs to be eligible for this incentive plan will include but not be limited to direct care, support and clinical personal service and fringe benefit amounts for employees whose most recent prior employment was at a developmental center.

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- (i) In order to have the cost of a former developmental center employee included in the incentive plan, the community facility applying for a rate adjustment pursuant to subsection (c)(7)(i)(f) must hire such employee during the transitional and conversion periods.
- (ii) Salaries and fringe benefit amounts paid to eligible employees by the facility cannot exceed the average salary and fringe benefit amount paid to comparable employees currently on that facility's payroll.
- (iii) Any claim made under this provision is subject to audit as noted in section (e).
- (3) Incentive plan applications from the provider shall be filed in accordance with (c)(7)(i)(e)(3).
- (ii) Administration cost category standards and support OTPS cost category standards which appear in section (f) shall be determined as follows:
 - (a) OMRDD shall develop values for every new rate cycle through application of cost standards as a function of each facility's bed capacity.
 - (b) Utility costs will not be included within the Support OTPS cost standard and therefore are not subject to the limitations contained within a cost category standard.

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(iii) Fringe Benefit cost category standards shall be determined as follows:

- (a) For every new rate cycle, OMRDD shall compute a site specific fringe benefit percentage for each facility. [For the rate cycle beginning April 1, 1986,] This percentage shall be determined by computing the total fringe benefit cost from the base period budget or full 12 month cost report and dividing this total by the total personal service cost (exclusive of contracted personal service) from the base period budget or cost report. For every rate cycle after April 1, 1984, this percentage shall be the lower of the previous rate cycle's cost based fringe benefit percentage plus 1 percent or a new percentage computed in accordance with the immediately preceding sentence. If a facility's previous rate is based upon a budget, it is not subject to the aforementioned 1 percent fringe benefit limitation.
- (b) To determine the fringe benefit component of the rate, the site specific fringe benefit percentage (as determined in subsection (a) immediately above) shall be multiplied by the total reimbursable personal service dollars (exclusive of contracted personal service).
- (c) For new facilities, the fringe benefit percentage allowed shall not exceed the average allowed for existing facilities, regardless of size, currently operated by the provider. If there are no existing facilities, then the fringe benefit percentage allowed, shall not exceed the average fringe benefit percentage of any other programs operated by the provider. If the provider does not operate any other programs, then the fringe benefit percentage allowed shall not exceed the average for comparable facilities.
- (d) Any increase in the fringe benefit percentage due to Federal or State laws, rules or regulations shall not be subject to the 1 percent increase limitation described in §(c)(7)(iii)(a).
- (e) If a newly certified facility whose base period rate was determined from total reimbursable budget costs, submits a full 12 month cost report for the subsequent period in accordance with §(c)(4)(i)(a), a new fringe benefit percentage shall be computed by totaling the fringe benefit costs and dividing these costs by the total personal service costs (exclusive of contracted personal service) as submitted in the new cost report. This percentage shall be subject to the limitations of §(c)(7)(iii)(a-d).

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- (8) Rates of reimbursement for facilities of over 30 beds shall be determined by taking into consideration total reimbursable costs and total client days as follows:

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(i) Computation of the base period

- (a) For a newly certified facility other than a developmental center, the [initial] base period rate shall be determined by [taking into account] dividing the total reimbursable operating costs [and] by 99 percent of the total client days as determined by multiplying the certified capacity of the facility by 365 days. As used in the above sentence "total reimbursable operating costs" shall mean the lower of a facility's submitted budget costs or the cost category standards. The submitted budget costs of a facility, other than a developmental center may be adjusted based on a comparison to the actual costs of other existing programs operated by the provider in order to determine a reasonable and economic level of reimbursable operating costs. If the provider does not operate other programs, the submitted budget costs may be adjusted based on a comparison to the actual costs of similar facilities in the same region. A "newly certified facility" shall mean a facility which has been in operation less than two full years as of the date of the start of a "rate cycle" as defined in §(c)(2)(ii).
- (b) For facilities other than "newly certified" facilities and developmental centers, the base period rate shall be determined [as follows. For other than "newly certified" facilities the] by dividing the total reimbursable operating costs [and] by the higher of either the actual reported client days or [98 percent] 99 percent of the total client days as determined by multiplying the certified capacity of the facility by 365 days[, shall be taken into account]. As used in the above sentence "reimbursable operating costs" shall mean the lower of the facility's submitted cost report costs, or the cost category standards. If the submitted cost report costs have undergone substantial material changes and if said changes conform to the requirements of §(d)(1)(iv) and have received prior approval by OMRDD and Division of Budget, these changes may be incorporated into the computation of the base period rate without the provider being required to file an appeal.
- (c) The base period rate for developmental centers shall be a Statewide average rate based on cost reports for those developmental centers that have been in operation for two or more years as of the date of the start of the rate cycle as defined in §(c)(2)(ii) and budget reports for those developmental centers that

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have been in operation for less than two full years as of the date of the start of the rate cycle as defined. The base period rate shall be determined by dividing total reimbursable costs, which have been trended by a factor calculated according to §(c)(8)(v)(b) and (c), for all developmental centers by the latest, available projected number of client days. "Total reimbursable costs" shall mean the lower of the sum of allowable cost report and budget report costs or the cost category standards. In addition, if substantial, material changes that conform to the requirements of §(d)(1)(iv) are projected for the rate year these changes may be

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incorporated into the computation of the base year rate without an appeal being filed. OMRDD shall perform a rate year end volume variance adjustment to the base period rate for developmental centers by taking, into account recalculated operating costs based upon a fixed to variable ratio of 64% fixed/36% variable, and actual days.

(ii) Computation of the subsequent period rate

(a) For newly certified facilities other than developmental centers where the base period rate was determined from total reimbursable budget costs, the subsequent period rate shall be determined by taking the total reimbursable operating costs portion (not including start-up allocation or any capital cost) and applying a trend factor calculated according to §(c)(8)(v)(a); if the provider submits a cost report in accordance with §(a)(1)(ii) that reflects a full 12 months of operation, this data shall be used and the rate shall be calculated according to §(c)(8)(i). Effective with the beginning of the next rate cycle a new base period rate shall be calculated. To determine the capital cost portion of the subsequent period rate, OMRDD may review the base period expense portion relating to capital costs for substantial material changes, and if said changes conform to the requirements as defined in §(c)(10)(ix), (x) and (xi) make corresponding adjustments in computing the subsequent period rate. To determine the operating cost portion of the subsequent period rate, OMRDD may review the base period expense portion relating to operational costs for substantial material changes, and if said changes conform to the requirements as defined in §(d)(1)(iv) and have received prior approval by OMRDD and Division of the Budget, may make corresponding adjustments in computing the subsequent period rate without the facility being required to file an appeal. Such rates shall be set in accordance with the facility's provider agreement, except as noted in §(c)(4)(ii).

(b) For facilities other than "newly certified" facilities and developmental centers the subsequent period rate shall be determined as follows. For other than "newly certified" facilities where the base period rate was determined from a 12 month cost report the subsequent period rate shall be determined by taking the total reimbursable operating cost portion (not including start-up allocation, or any capital costs) of the base period rate and applying a trend factor calculated according to §(c)(8)(v)(a). To determine the capital cost portion of the subsequent period rate, OMRDD may review the base period portion relating to capital costs for substantial material changes, and if said changes conform to the requirements as defined in §(c)(10)(ix)(x) and (xi) make corresponding adjustments in computing the

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subsequent period rate. To determine the operating cost portion of the subsequent period rate, OMRDD may review the base period expense portion relating to operational costs for substantial material changes, and if said changes conform to the requirements as defined in §(d)(1)(iv) and have received prior approval by OMRDD and Division of the Budget, may make corresponding adjustments in computing the subsequent period rate without the facility being required to file an appeal. Such rates shall be set in accordance with a facility's provider agreement except as noted in §(c)(4)(ii).

- (c) The subsequent period rate for developmental centers shall be a statewide average rate which will be determined by dividing the reimbursable operating cost portion of the base period rate, which has been trended by a factor calculated according to §(c)(8)(v)(b) and (c), by the latest, available projected number of client days. If a cost report that reflects a full 12 months of operation is available for a developmental center that has been in operation for less than two full years as of the date of the start of the rate cycle as defined in §(c)(2)(ii), this data shall be used in place of the budget report. In addition, if substantial, material changes that conform to the requirements of §(d)(1)(iv) are projected for the rate year these changes may be incorporated into the computation of the subsequent period rate without an appeal being filed. OMRDD shall perform a rate year and volume variance adjustment to the subsequent period rate for developmental centers by taking into account recalculated operating costs based upon a fixed to variable ratio of 64 percent fixed, 36 percent variable, and actual days.
- (iii) OMRDD will develop rates for facilities of over 30 beds using either budgets for newly certified facilities, or cost reports submitted by other than newly certified facilities as required in §(a)(1)(i) and (ii) respectively.
- (iv) Rates of reimbursement for facilities of over 30 beds shall be developed in accordance with §(c) except for provisions thereunder applicable to under 31 bed facilities. Notwithstanding the above, rates of reimbursement for facilities of over 30 beds shall be developed in accordance with §(c)(3)(vii)(b)(1), (2) and (3). Such rates shall include the following cost category standards, (i.e., the maximum amount that will be allowed for a specific item or group of items) which are based upon actual data obtained from the developmental centers and voluntary operated over 30 bed facilities.
 - (a) Direct Care, Mid-Level Supervision, and Clinical Personal Service cost category standards shall be determined as follows:
 - (1) For every new rate cycle, OMRDD shall develop values by applying a maximum statewide salary amount to a facility's applicable client specific staffing standards.

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- (2) These standards will reflect the severity of disabilities of the client population residing at the facility; the number of beds in the facility; whether or not a facility provides on-site day program services; and the type of clientele the facility provides services to; i.e., adults, children, or both.
- (b) Administrative and Support cost category standards shall be determined as follows:
- (1) OMRDD shall develop values for every new rate cycle by application of a statewide maximum allowable cost.
- (2) The personal services costs shall be determined by applying a maximum statewide salary amount to the allowable staffing level.
- (c) Fringe Benefit cost category standards shall be determined as follows:
- (1) For every new rate cycle, OMRDD shall compute a site specific fringe benefit percentage for each facility other than a developmental center as indicated below. This percentage shall be determined by computing the total fringe benefit cost from the base period budget or cost report. For every rate cycle after April 1, 1984, this percentage shall be the lower of the previous rate cycle's cost based fringe benefit percentage plus one percent or a new percentage computed in accordance with the immediately preceding sentence. If a facility's previous rate is based upon a budget, it is not subject to the aforementioned one percent fringe benefit limitation.
- (2) To determine the fringe benefit component of the rate, the site specific fringe benefit percentage (as determined in subsection §(c)(1) immediately above or estimated costs immediately above) shall be multiplied by the total reimbursable personal service dollars (exclusive of contracted personal service).
- (3) For new facilities other than developmental centers, the fringe benefit percentage allowed shall not exceed the average allowed for existing facilities regardless of the program size of the current operations of the provider. If there are no existing facilities then the fringe benefit percentage allowed shall not exceed the average fringe benefit percentage of any other programs operated by the provider. If the provider does not operate any other programs, then the fringe benefit percentage allowed shall not exceed the average for comparable facilities.

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- (4) Any increase in the fringe benefit percentage due to Federal or State laws, rules or regulations, shall not be subject to the 1% increase limitation described in §(c)(8)(iv)(c)(1).
- (5) If a newly certified facility other than a developmental center, whose base period rate was determined from total reimbursable budget costs, submits a cost report for the subsequent period in accordance with §(c)(8)(ii)(a), a new fringe benefit percentage shall be computed by totaling the fringe benefit costs and dividing these costs by the total personal service costs (exclusive of contracted costs) as submitted in the new cost report. This percentage shall be subject to the limitations of §(c)(8)(iv)(c)(1-4)(6).
- (6) For developmental centers, the allowed fringe benefit percentage shall be that percentage approved by the Federal government.
- (d) Other than Personal Service (OTPS) and Overhead shall be combined into one cost category standard which shall be determined as follows:
 - (1) The Other than Personal Service component of the cost category standard will be based on a per bed amount effective at the beginning of each new rate cycle.
 - (2) The overhead component of the cost category standard will be a percentage of reimbursable personal service and fringe benefits.
 - (3) This combined cost category standard will be compared to reported cost or budget OTPS, Agency Administration personal service, OTPS, fringe benefits, and capital costs to determine reimbursable costs.
 - (4) For developmental centers the overhead costs shall be the sum of:
 - (i) The cost of those services and the amount of departmental central support costs as allocated to OMRDD by the statewide cost allocation plan, and

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